

REMARKS

The present Amendment responds to the Office Action dated April 16, 2008 having a shortened statutory period for response set to expire on July 16, 2008. Filed concurrently herewith is a request for a three (3) month extension of time to respond, making the present Amendment due by October 16, 2008.

In the Office Action, claims 1-8 are pending. Each of the claims has been rejected under 35 USC § 103(a) as being unpatentable over EP 0304954 A2 to ICI Australia Limited. The Examiner highlights Example 19 on page 37 of the cited reference to explain the difference between Applicants' claimed invention, as claimed in original claim 1, and the process of preparing gamma-cyhalothrin disclosed in the reference. The Examiner goes on to take the position that one of ordinary skill in the art would find it obvious to arrive at Applicants' claimed invention.

In response to the Examiner's rejection, Applicants have amended claim 1 to now include the elements of claim 2. The Examiner does not specifically comment on the elements of original claim 2 in the present Office Action, however, Applicants respectfully submit that by amending claim 1 in this way, the concerns raised by the Examiner have been addressed.

As amended, claim 1 now recites that HCl is formed during the esterification and that it is also removed from the reaction mass "using a combination of physical methods and a sub-stoichiometric amount of a base". Applicants submit that this reaction step is inventive over the reaction disclosed in EP 0304954 A2, and specifically with respect to Example 19 therein.

The present specification teaches that the physical removal of HCl from the reaction mass drives the process of producing the desired gamma-cyhalothrin to completion. On page 2, beginning on line 23, Applicants state that it is highly desirable to take the action to completion to maximize yield of the desired product. To do so requires the efficient removal of HCl. As discussed in the application, prior art methods were either unable to give the desired yield (use of physical methods) or had the undesirable effect of having to employ complicated recovery processes or disposal of large amounts of waste material (use of stoichiometric amounts of base).

As disclosed, Applicants discovered that the reaction could be taken to completion in an acceptable time by removing HCl using a combination of physical methods and a sub-stoichiometric amount of a base. Applicants direct the Examiner's attention to Example 2 on pages 6 and 7. As taught therein, physical methods alone (refluxing for 21 Hours) could not drive the reaction to completion (see page 7 line 8) but, addition of a sub-stoichiometric amount of a base drove the reaction to completion in 3 hours (see page 7 lines 10-11).

The result achieved by this method is highly desirable since it not only drives this reaction to completion, but maximizes the yield of the end product, gamma-cyhalothrin. Neither the cited

reference EP 0304954 A2 nor the other references made of record, teach the removal of HCl by using a combination of physical methods and a sub-stoichiometric amount of a base. Accordingly, the present invention, as claimed, is non-obvious to the person of ordinary skill in the art.

Based upon the foregoing then, Applicants submit that the pending claims are in condition for allowance and the Examiner is courteously solicited to pass this application on to allowance. No other fees are believed to be payable at this time. However, the Commissioner is authorized to debit any applicable fees from the deposit account of the undersigned, no 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

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